

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

PAUL W. MEYN, JR.,

Plaintiff,

v.

**CITYWIDE MORTGAGE ASSOCIATES,
INC.; RUSSELL ELLISON/ACE
APPRAISALS, INC.; and QUICKEN
LOANS, INC.,**

Defendants.

Case No. 16-2492

MEMORANDUM AND ORDER

Defendant Quicken Loans, Inc., (“defendant Quicken”) removed this action from state court. Upon removal, plaintiff filed two motions for default judgment (Docs. 7, 8) against defendant Quicken and defendant Citywide Mortgage Associates, Inc. (“defendant Citywide”). Plaintiff claims that neither defendant timely responded to the complaint and asks this court to enter default judgment in his favor.

Defendant Quicken filed its removal petition within thirty days (extended by a weekend) of service of plaintiff’s complaint. Defendant Quicken then filed its motion to dismiss within seven days of filing the removal notice. Both of these actions are timely. *See* 28 U.S.C. § 1446(b) (providing that a notice of removal must be filed within thirty days); Fed. R. Civ. P. 6(a)(1)(C) (“[I]f the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.”); Fed. R. Civ. P. 81(c)(2)(C) (providing that a defendant must answer or present other defenses within seven days of removal). There is no basis for granting default judgment in favor of plaintiff against defendant Quicken.

Defendant Citywide has not appeared in this action. From the court's review of the state court documents, it is unclear whether plaintiff properly served defendant Citywide. In any event, plaintiff has not requested a Clerk's Entry of Default, which is a prerequisite to this court entering default judgment. Fed. R. Civ. P. 55(a). The court therefore denies plaintiff's motion for default judgment against defendant Citywide without prejudice.

Finally, the court previously extended the time for plaintiff to respond to a motion to dismiss filed by defendant Quicken. (Doc. 10.) At this point, plaintiff's response is due on October 11, 2016. Defendant Quicken asks the court to shorten plaintiff's response time because plaintiff's motions for default judgment lack merit. Although the court has denied plaintiff's motions, the court will leave the extended response date the same, as it is roughly the same amount of time plaintiff would have to respond if defendant Quicken filed its motion to dismiss today.

IT IS THEREFORE ORDERED that plaintiff's Motions for Default Judgment (Docs. 7, 8) are denied.

Dated this 21st day of September, 2016, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge